



Crl.O.P.(MD)No.16415 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.03.2023

CORAM

THE HON'BLE MR.JUSTICE K.K. RAMAKRISHNAN

Crl.O.P.(MD)No.16415 of 2017
and Crl.M.P.(MD)Nos.10888 & 10889 of 2017

1.Baskaran

2.Pothiraj

3.Dhamodharan

4.Kasiammal

5.Annalakshmi

... Petitioners

Vs.

Mariappan

... Respondents

PRAYER : Criminal Original Petition filed under Section 482 of the Criminal Procedure Code, to call for the records relating to the case in C.C.No.409 of 2017 on the file of the Judicial Magistrate No.III, Tirunelveli and quash the same by allowing this criminal original petition.

For Petitioners : Mr.P.Samuel Gunasingh

For Respondent : Mr.Jegadeesh Pandian



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ORDER

Accused in C.C.No.409 of 2017 filed this petition to quash the proceedings pending before the Judicial Magistrate No.III, Tirunelveli, for the alleged offence under Sections 348, 324,330 and 388 IPC.

2. On 27.04.2016 at 9.00 a.m, the petitioners are all police officers attached with the Sivakasii Town Police Station and illegally trespassed into the house of the defacto complainant and assaulted her husband and the same was intercepted by the complainant and she was also attacked by the petitioners. The police officers forced to admit the guilt of the murder of one Raj which was taken place in the Narikudi village and obtained signature in the blank papers and threatened not to disclose the above incident to anybody. So, the defacto complainant preferred a complaint before the jurisdictional police and the same was not accepted by the police officers and hence he preferred a private complaint under Section 200 Cr.P.C. The learned Judicial Magistrate was pleased to take the cognizance against the petitioners under Sections 348, 324,330 and



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388 IPC and challenging the same, the petitioners filed this quash petition by raising the various grounds mentioned in the memo of grounds of appeal.

3.The learned counsel for the petitioners submits that without considering the previous antecedents of the defacto complainant including robbery case in and around Tirunelveli District, the learned Judicial Magistrate passed cryptic order and the same was not in accordance with the law laid down by the Hon'ble Supreme Court in a judgment reported in **(2015) 4 SCC 609** in a case of ***Sunil Bharti Mittal Vs. Central Bureau of Investigation*** and also law laid down by this Court in a judgment reported in **(2019) 3 MLJ (Crl) 339 Shanmugam and others Vs. Inspector of Police, Ariyalur Police Station, Ariyalur and others.**

4.The learned counsel for the respondent fairly submits that the order is not in-consonance with the law laid down by the Hon'ble Supreme Court and the Hon'ble Supreme Court repeatedly directed the learned Judicial Magistrate before taking cognizance on the basis of the



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private complaint ought to have applied his mind and pass the reasoned order of taking cognizance.

5. So both counsels agreed to remand the case to the learned Judicial Magistrate for proper consideration.

6. In the said circumstances, the case is remitted back to the learned Judicial Magistrate No.III, Tirunelveli to pass order of cognizance by passing the reasoned order with specific finding against the individual accused with application of mind and directed to consider the principle laid down by the Hon'ble Supreme Court in various cases and also the judgment reported in *(2015) 4 SCC 609* and this Court judgment reported in *(2019) 3 MLJ (Crl) 339*.

7. With the above observations, this criminal original petition is allowed. Consequently, connected miscellaneous petitions are closed.

06.03.2023

NCC : Yes / No

Index : Yes / No

Internet : Yes / No

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Note: Issue Order copy on 03.05.2023



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To

- 1.The Judicial Magistrate No.III,
Tirunelveli
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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K.K. RAMAKRISHNAN,J.

gns

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